

## **ARTICLE IV. HAZARDOUS TREE REMOVAL**

### **Sec. 38.5-30. Nuisance declared.**

Any tree which, by virtue of its condition and location, endangers the life, health, or safety of any person or structure on adjacent or adjoining real property is hereby declared to be a public nuisance and prohibited.

(Ord. No. 95-4.16, 4-4-95)

### **Sec. 38.5-31. Abatement of public nuisance.**

(a) If a tree which constitutes a public nuisance is located on real property which is not owned by the City, the Director of Public Works, or his designee, shall notify the owner of such tree in writing by certified mail, return receipt requested, to the address of the owner shown on the records in the office of the City Real Estate Assessor, citing the tree's condition and the corrective action required to remove the public nuisance. If such owner cannot be identified or found, a copy of such notice shall be placed upon such tree or part thereof. Written notice shall also be given to any tenant leasing such property.

(b) Upon receipt of the written notice described above, the property owner may appeal the order to the City Manager. Such appeal must be made in writing during the fifteen-day interval given in the notice from the Director of Public Works, or his designee. Any actions required in the notice shall be delayed pending the City's Manager's response to the appeal.

(c) If any work required to be done by the Director of Public Works, or his designee, is not accomplished within the time specified, the Director of Public Works shall request the City Attorney to institute a suit for an injunction to compel the responsible party to abate or remove the public nuisance and/or see that such responsible person is prosecuted for violation of section 38.5-30.

(d) If the tree constituting a public nuisance presents an imminent and immediate threat to life or property, then the Director of Public Works is authorized and directed to abate or remove such public nuisance and to request the City Attorney to bring an action against the responsible party to recover the necessary costs incurred for the provision of emergency services reasonably required to abate any such public nuisance.

(e) The term "responsible party" shall include, but not be limited to, the owner, occupier, or possessor of the premises where the nuisance is located.

(Ord. No. 95-4.16, 4-4-95)

### **Sec. 38.5-32. Severability.**

The provisions of this article are severable. If any provision of this article or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application.

(Ord. No. 95-4.16, 4-4-95)

### **Sec. 38.5-33. Penalty.**

Any person, firm, or corporation violating the provisions of section 38.5-30 after receiving the notice described in section 38.5-31 shall be fined not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

**Sec. 38.5-34. Liability.**

Once an owner of the property where a tree described in section 38.5-30 is situated has been notified by the Director of Public Works, as required in section 38.5-31, such owner will not be relieved from liability from damages resulting from a tree constituting a public nuisance. In no event will the City be held liable for damages resulting from a tree constituting a public nuisance located on private property.

(Ord. No. 95-4.16, 4-4-95)